

Designation Run Report

Howenstein, Kim - Plaintiffs' Submission

Howenstein, Kim 01-10-2019

Plaintiff Designations 00:26:31

Defense Counters 00:00:19

Plaintiff Counter Counters 00:03:10

Defense Completeness Counters 00:03:35

Total Time 00:33:35



KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
10:11 - 10:19	Howenstein, Kim 01-10-2019 (00:00:05) 10:11 KIM HOWENSTEIN 10:12 being by me first duly sworn, as hereinafter 10:13 certified, testifies and says as follows: 10:14 EXAMINATION 10:15 BY MR. ELKINS: 10:16 Q. Good morning, Ms. Howenstein. My 10:17 name is AJ Elkins. Am I pronouncing your last 10:18 name correctly? 10:19 A. Howenstein.	KH01.1
11:17 - 11:22	Howenstein, Kim 01-10-2019 (00:00:12) 11:17 Q. Where are you currently employed? 11:18 A. I'm currently employed with 11:19 Cardinal Health. 11:20 Q. And what is your title? 11:21 A. Currently, I am director of non-PD 11:22 customer management.	KH01.2
12:1 - 12:10	Howenstein, Kim 01-10-2019 (00:00:28) 12:1 Q. What does that mean? 12:2 A. It is business units outside of 12:3 our retail space. 12:4 Q. Okay. What kind of business units 12:5 would that be? 12:6 A. So subsidiaries of Cardinal 12:7 Health. So Par Med, SPD, SPS, or specialty 12:8 business units. 12:9 Q. Okay. 12:10 A. Those sorts of things.	KH01.3
12:11 - 14:22	Howenstein, Kim 01-10-2019 (00:02:56) 12:11 Q. Okay. What does your job entail? 12:12 What are your duties and responsibilities? 12:13 A. Currently? 12:14 Q. Currently. 12:15 A. Currently. So I just took the 12:16 position -- excuse me -- in November of 2018, so 12:17 I'm still getting a handle on it. But the main 12:18 roles and responsibilities is the customer 12:19 management of threshold reviews, threshold 12:20 settings, specific to the nonpharmaceutical 12:21 distributions.	KH01.90

Page/Line

Source

ID

12:22 Q. Okay. Threshold settings related

12:23 to nonpharmaceutical?

12:24 A. Our non-PD distribution centers.

13:1 So, again, our specialty, our distribution

13:2 centers, our SPS, SPD, Par Med.

13:3 Q. Okay. So dealing with products

13:4 that aren't pharmaceuticals?

13:5 A. They are pharmaceuticals.

13:6 Q. Okay. And you started that, you

13:7 said, November of 2018?

13:8 A. That is correct.

13:9 Q. What was your title before then?

13:10 A. I can't recall specifically. Risk

13:11 manager of analytics. That's not the exact

13:12 title. I can't recall specifically what that

13:13 title was.

13:14 Q. Okay. How long were you in that

13:15 position?

13:16 A. Please repeat that.

13:17 Q. How long were you in that

13:18 position?

13:19 A. That position was roughly three

13:20 years. It was from '13 through -- I'm sorry,

13:21 '15 through '18.

13:22 Q. '18. And what -- what did your

13:23 responsibilities include with respect to that

13:24 position?

14:1 A. That was dealing with

14:2 threshold-related matters specific to our PD

14:3 space, so our pharmaceutical space.

14:4 Q. Okay. And then prior to '15 --

14:5 well, first, when -- when did you start at

14:6 Cardinal?

14:7 A. I started as a temp in October of

14:8 2008, and I was hired on full-time March of

14:9 2009.

14:10 Q. So prior to 2015, what was your

14:11 position with Cardinal?

14:12 A. Prior to 2015 I was --

14:13 Q. I'm sorry. Prior to your position

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	14:14 as the analytics manager.	
	14:15 A. Sure.	
	14:16 So from end of 2012, beginning of	
	14:17 2013, up until October of '15, I believe, I was	
	14:18 in the investigation space of the anti-diversion	
	14:19 team.	
	14:20 Q. Okay. Investigations, does that	
	14:21 include site visits to pharmacies?	
	14:22 A. That is correct.	
15:8 - 15:16	Howenstein, Kim 01-10-2019 (00:00:24)	KH01.4
	15:8 Q. Okay. So what did you do in that	
	15:9 position?	
	15:10 A. I acted as a supplemental resource	
	15:11 to the director of the investigations team who	
	15:12 managed the investigators out in the field. So	
	15:13 I did a lot of document collection for them. I	
	15:14 would handle their schedules, sending them out	
	15:15 to the different pharmacies for their reviews,	
	15:16 things like that.	
15:17 - 16:20	Howenstein, Kim 01-10-2019 (00:01:26)	KH01.70
	15:17 Q. Document collection, what does	
	15:18 that mean exactly?	
	15:19 A. Sure. So if they needed -- and	
	15:20 they had access to all of these documents, too.	
	15:21 But if there were documents as part of the	
	15:22 customer's file, if they asked me to pull that,	
	15:23 I would pull that for them. Again, they also	
	15:24 had access to that information.	
	16:1 I would set up the scheduling for	
	16:2 them, act as a liaison between whoever requested	
	16:3 it and them, if there was additional information	
	16:4 they could work through me. But they could also	
	16:5 go directly to the individual that requested the	
	16:6 visit as well.	
	16:7 Q. Who would be -- who would request	
	16:8 visits? What were the different reasons for	
	16:9 requesting the visit?	
	16:10 A. So different reasons could be --	
	16:11 again, this is not an exhaustive list, but it	
	16:12 could be a threshold request, it could be based	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	<p>16:13 on maybe a pharmacy closed and was absorbing</p> <p>16:14 additional business so we went out and took a</p> <p>16:15 look at the pharmacy. There's a myriad of</p> <p>16:16 reasons.</p> <p>16:17 Q. Would that include when Cardinal</p> <p>16:18 would take on a new customer, a new pharmacy, an</p> <p>16:19 on-site investigation related to that?</p> <p>16:20 A. Potentially.</p>	
16:21 - 17:8	<p>Howenstein, Kim 01-10-2019 (00:00:45)</p> <p>16:21 Q. Okay. So prior to 2012, what were</p> <p>16:22 your responsibilities at Cardinal?</p> <p>16:23 A. Prior to '12, between 2009, when I</p> <p>16:24 was hired on, through the end of '12, I was in</p> <p>17:1 new account setup.</p> <p>17:2 Q. And what did you do in new account</p> <p>17:3 setup?</p> <p>17:4 A. The main responsibilities were to</p> <p>17:5 look at customers that were prospects to</p> <p>17:6 Cardinal that wanted to become customers of</p> <p>17:7 Cardinal Health, so the role was to review</p> <p>17:8 prospective customers.</p>	KH01.5
17:9 - 17:17	<p>Howenstein, Kim 01-10-2019 (00:00:17)</p> <p>17:9 Q. What kind of things did you</p> <p>17:10 review?</p> <p>17:11 A. There was a myriad of things and,</p> <p>17:12 again, this is not an exhaustive list. But they</p> <p>17:13 would complete a KYC, which is a Know Your</p> <p>17:14 Customer questionnaire. And from those details</p> <p>17:15 that were provided by the pharmacy, there were</p> <p>17:16 additional pieces that we would pull, licensure,</p> <p>17:17 things like that.</p>	KH01.71
92:2 - 92:4	<p>Howenstein, Kim 01-10-2019 (00:00:12)</p> <p>92:2 Q. Ms. Howenstein, I'm going to hand</p> <p>92:3 you a copy of the personnel file that was</p> <p>92:4 produced by your counsel to plaintiffs.</p>	KH01.6
92:9 - 92:10	<p>Howenstein, Kim 01-10-2019 (00:00:02)</p> <p>92:9 Q. And we've marked that as</p> <p>92:10 Exhibit 3.</p>	KH01.7
92:11 - 92:12	<p>Howenstein, Kim 01-10-2019 (00:00:09)</p> <p>92:11 If you could turn to the fifth</p>	KH01.8

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
92:13 - 92:15	92:12 page. So it would be 3650.5. Howenstein, Kim 01-10-2019 (00:00:07)	KH01.9
	92:13 Have you ever seen this before?	
	92:14 A. 3650.5?	
	92:15 Q. .5, yes, ma'am.	
92:18 - 92:18	Howenstein, Kim 01-10-2019 (00:00:02)	KH01.10
	92:18 A. I have seen this before.	
94:2 - 94:5	Howenstein, Kim 01-10-2019 (00:00:11)	KH01.11
	94:2 Q. So this says you were involved	
	94:3 in -- or that you created this SOP, this	
	94:4 threshold event/early dialogue SOP; is that	
	94:5 right?	
94:7 - 94:11	Howenstein, Kim 01-10-2019 (00:00:25)	KH01.12
	94:7 A. I don't recall this.	
	94:8 Q. You don't recall ever creating or	
	94:9 revising a Cardinal standard operating procedure	
	94:10 related to threshold events and early dialogue?	
	94:11 A. I do not recall.	
96:4 - 96:10	Howenstein, Kim 01-10-2019 (00:00:18)	KH01.13
	96:4 Q. Did you draft the information	
	96:5 that's in this personnel file, or at least on	
	96:6 this page?	
	96:7 A. I did write that box.	
	96:8 Q. So you wrote that? You agree that	
	96:9 you wrote that, yes?	
	96:10 A. I would agree that I wrote that.	
97:3 - 98:9	Howenstein, Kim 01-10-2019 (00:01:41)	KH01.14
	97:3 Q. And I apologize for bouncing back	
	97:4 to it, but the personnel file, Page 6, at the	
	97:5 bottom right-hand corner, do you see that date?	
	97:6 A. I do.	
	97:7 Q. That's August 23rd, 2011, correct?	
	97:8 A. That is correct.	
	97:9 Q. That's also during your time in	
	97:10 new account setup, right?	
	97:11 A. That is correct.	
	97:12 Q. And that's after the date of the	
	97:13 sales early dialogue SOP that we're looking at,	
	97:14 right?	
	97:15 A. That is correct.	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line

Source

ID

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97:16 Q. At 1.0, on the first page of the
 97:17 sales early dialogue SOP, could you read that
 97:18 paragraph next to "purpose."
 97:19 A. Sure. "The federal Controlled
 97:20 Substances Act requires pharmaceutical
 97:21 wholesalers to maintain effective controls to
 97:22 guard against the diversion of controlled
 97:23 substances. As part of this requirement,
 97:24 Cardinal Health has developed a suspicious order
 98:1 monitoring (SOM) program to identify orders of
 98:2 unusual size, pattern, and/or frequency. This
 98:3 policy provides process requirements for the
 98:4 continuous monitoring and reporting of customer
 98:5 order activities by sales during the execution
 98:6 of the SOM program. This process focuses on
 98:7 early dialogue activities."
 98:8 Q. Is anything in that paragraph
 98:9 familiar to you?

98:11 - 98:12 **Howenstein, Kim 01-10-2019 (00:00:03)**

KH01.15

98:11 A. Some of these statements I am
 98:12 familiar with.

98:13 - 98:15 **Howenstein, Kim 01-10-2019 (00:00:04)**

KH01.72

98:13 Q. Did you write any of these
 98:14 statements?

98:15 A. No, sir.

98:16 - 99:5 **Howenstein, Kim 01-10-2019 (00:00:43)**

KH01.16

98:16 Q. Okay. Below there, there is 4.0,
 98:17 and then next to that, it says "policy."
 98:18 A. Yes.
 98:19 Q. Could you read that paragraph next
 98:20 to that, please.
 98:21 A. "The anti-diversion team within
 98:22 QRA, supply chain integrity, is responsible for
 98:23 the continuous reporting of threshold events
 98:24 identified during the execution of the
 99:1 suspicious order monitoring (SOM) program. The
 99:2 reporting encompasses two components: 1,
 99:3 internal reports that assist in the evaluation
 99:4 of threshold events; and, 2, communication of
 99:5 the threshold events to the sales department."

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
99:6 - 99:6	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.73
	99:6 Q. Do you recall writing that?	
99:8 - 99:8	Howenstein, Kim 01-10-2019 (00:00:00)	KH01.81
	99:8 A. No, sir, I do not.	
99:9 - 99:13	Howenstein, Kim 01-10-2019 (00:00:17)	KH01.17
	99:9 Q. During 2009 to 2012, what you were	
	99:10 doing with respect to new account setup, would	
	99:11 that be considered the anti-diversion team?	
	99:12 A. New account setup is part of the	
	99:13 anti-diversion team.	
125:22 - 125:24	Howenstein, Kim 01-10-2019 (00:00:09)	KH01.18
	125:22 Q. Okay. And in QRA, you have a role	
	125:23 that you must play within Cardinal Health to	
	125:24 protect the public as well, correct?	
126:2 - 126:7	Howenstein, Kim 01-10-2019 (00:00:16)	KH01.19
	126:2 A. I don't know the full scope of the	
	126:3 role or obligation.	
	126:4 Q. So you don't know if you	
	126:5 necessarily had a role in your -- in your job,	
	126:6 say, up until 2013, to -- within Cardinal Health	
	126:7 to help protect the public?	
126:14 - 126:22	Howenstein, Kim 01-10-2019 (00:00:32)	KH01.20
	126:14 A. As part -- the anti-diversion	
	126:15 program, we have processes in place that help us	
	126:16 do our job, and part of that is creating systems	
	126:17 to help us detect orders.	
	126:18 Q. Okay. Ma'am, that wasn't my	
	126:19 question, though. My question was: Is in QRA,	
	126:20 you have a role that you must play within	
	126:21 Cardinal to protect the public at large,	
	126:22 correct? Yes or no.	
127:2 - 127:2	Howenstein, Kim 01-10-2019 (00:00:02)	KH01.93
	127:2 A. Can you please repeat?	
127:4 - 127:7	Howenstein, Kim 01-10-2019 (00:00:11)	KH01.21
	127:4 In QRA or anti-diversion, you have	
	127:5 a role that you must play within Cardinal to	
	127:6 protect the public, "correct," or "incorrect,"	
	127:7 or "I don't know"?	
127:9 - 127:16	Howenstein, Kim 01-10-2019 (00:00:40)	KH01.91
	127:9 A. Cardinal has a role as one piece	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	127:10 of the supply chain.	
	127:11 Q. A role for what? Protecting the	
	127:12 public?	
	127:13 A. We have a role in anti-diversion	
	127:14 to, again, identify orders, which is what we are	
	127:15 tasked with to help in our obligations according	
	127:16 to the Controlled Substances Act.	
128:10 - 128:12	Howenstein, Kim 01-10-2019 (00:00:07)	KH01.23
	128:10 So do you agree or disagree that	
	128:11 within QRA, that you have a role you must play	
	128:12 within Cardinal to protect the public?	
128:18 - 128:21	Howenstein, Kim 01-10-2019 (00:00:08)	KH01.24
	128:18 A. I believe Cardinal has a role to	
	128:19 play within the supply chain.	
	128:20 Q. To protect the public?	
	128:21 A. I don't know.	
128:23 - 128:24	Howenstein, Kim 01-10-2019 (00:00:05)	KH01.25
	128:23 And what exhibit is this?	
	128:24 Exhibit 3. You have it in front of you.	
129:2 - 129:5	Howenstein, Kim 01-10-2019 (00:00:13)	KH01.26
	129:2 And you're telling this jury	
	129:3 sitting here today you don't know whether	
	129:4 Cardinal has -- or you in QRA have a role to	
	129:5 play within Cardinal to help protect the public.	
130:6 - 130:9	Howenstein, Kim 01-10-2019 (00:00:12)	KH01.27
	130:6 Q. Also, just so the record's clear,	
	130:7 this is your -- one of your evaluations, right?	
	130:8 At least that's what it's been represented to us	
	130:9 as.	
130:12 - 130:12	Howenstein, Kim 01-10-2019 (00:00:02)	KH01.28
	130:12 A. Okay. Yes.	
130:13 - 130:15	Howenstein, Kim 01-10-2019 (00:00:05)	KH01.29
	130:13 Q. You went back to Page 35 of the	
	130:14 document and you saw your picture in the upper	
	130:15 left-hand corner?	
130:18 - 130:18	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.30
	130:18 A. Correct.	
130:21 - 131:15	Howenstein, Kim 01-10-2019 (00:00:44)	KH01.31
	130:21 Q. It says "Kimberly Howenstein." It	
	130:22 was done by -- how do you pronounce that	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
130:23	gentleman's name, Mr. --	
130:24	A. Ullrich Mayeski.	
131:1	Q. Okay. And your manager is	
131:2	Todd Cameron, right?	
131:3	A. That is Ullrich's manager.	
131:4	Q. So is Ullrich your manager?	
131:5	A. That is correct.	
131:6	Q. And it says "July 1st, 2012,	
131:7	through June 30th, 2013," right?	
131:8	A. That's correct.	
131:9	Q. All right. So let's go back to	
131:10	Page 48 there. And it's blown up on the screen	
131:11	so everybody can see it.	
131:12	It says, "QRA can be viewed as a	
131:13	thankless job at times simply because the nature	
131:14	of the business and the role we must play within	
131:15	Cardinal Health to protect the public."	
131:22 - 131:23	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.32
131:22	Q. Did I read that right,	
131:23	Ms. Howenstein?	
132:2 - 132:10	Howenstein, Kim 01-10-2019 (00:00:16)	KH01.33
132:2	A. Yes, I see those words there.	
132:3	Q. And these are your words, aren't	
132:4	they?	
132:5	A. They are.	
132:6	Q. You wrote this?	
132:7	A. I did.	
132:8	Q. You wrote that back in 2012 to	
132:9	2013, part of your role in QRA was to protect	
132:10	the public, correct?	
132:12 - 132:12	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.34
132:12	Q. That's what it says, right?	
132:14 - 132:24	Howenstein, Kim 01-10-2019 (00:00:27)	KH01.35
132:14	A. That is what I wrote, yes.	
132:15	Q. Okay. And then it goes on to say,	
132:16	"Sometimes we have to make those tough decisions	
132:17	that are not always popular and defend those	
132:18	decisions when our only supporters are those in	
132:19	QRA," doesn't it?	
132:20	A. I do see that, yes.	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
132:21	Q. That's exactly what I asked you	
132:22	earlier, right? And we sort of walked through	
132:23	that nonresponsive process. But these are your	
132:24	words that you wrote back in 2013, correct?	
133:3 - 133:13	Howenstein, Kim 01-10-2019 (00:00:15)	KH01.36
133:3	A. I did write these.	
133:4	Q. No one made you write these, did	
133:5	they?	
133:6	A. No, sir.	
133:7	Q. Did anybody force you to make	
133:8	those statements?	
133:9	A. No.	
133:10	Q. You did this on your own free will	
133:11	in part of your job in doing your personnel	
133:12	evaluation, correct?	
133:13	A. That's correct.	
135:3 - 135:6	Howenstein, Kim 01-10-2019 (00:00:06)	KH01.74
135:3	Do you stand by your statement	
135:4	that you made back in 2013, or do you feel	
135:5	differently sitting here in the middle of a	
135:6	deposition today?	
135:8 - 135:13	Howenstein, Kim 01-10-2019 (00:00:15)	KH01.82
135:8	A. The statement, "The role we must	
135:9	play within Cardinal Health to protect the	
135:10	public," that is -- appears to be something that	
135:11	I had read. It doesn't look like those were	
135:12	exactly my words. I can't speak to my thought	
135:13	processes when I wrote that.	
135:15 - 135:24	Howenstein, Kim 01-10-2019	KH01.79
135:15	So when you were filling out your	
135:16	personnel evaluations -- I'm sure you've filled	
135:17	out more since then, right? I mean, I even have	
135:18	a couple. Right?	
135:19	A. Sure.	
135:20	Q. -- was it common practice at	
135:21	Cardinal for them to give you written statements	
135:22	to make you write those in your personnel	
135:23	evaluations?	
135:24	A. No.	
136:1 - 136:1	Howenstein, Kim 01-10-2019 (00:00:05)	KH01.92

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
136:2 - 136:4	<p>136:1 Q. Okay. Okay. So let's go to</p> <p>Howenstein, Kim 01-10-2019 (00:00:06)</p> <p>136:2 Page 6 of the same document. In the first box</p> <p>136:3 in the upper left says, "Perform due diligence</p> <p>136:4 for new customers."</p>	KH01.68
139:14 - 139:22	<p>Howenstein, Kim 01-10-2019 (00:00:15)</p> <p>139:14 Q. Okay. In the upper left-hand</p> <p>139:15 corner of that first white box, not the shaded</p> <p>139:16 area, it says, "Perform due diligence for new</p> <p>139:17 customers."</p> <p>139:18 Do you see that?</p> <p>139:19 A. I do.</p> <p>139:20 Q. Now, is that a function that you</p> <p>139:21 performed back during this time frame?</p> <p>139:22 A. It was.</p>	KH01.38
139:23 - 140:23	<p>Howenstein, Kim 01-10-2019 (00:00:43)</p> <p>139:23 Q. And this performance evaluation,</p> <p>139:24 if you can look in the bottom right-hand corner</p> <p>140:1 of the document, says "August 23 of 2011."</p> <p>140:2 Do you see that?</p> <p>140:3 A. I do.</p> <p>140:4 Q. Is that consistent with what you</p> <p>140:5 were doing during that time frame?</p> <p>140:6 A. Yes.</p> <p>140:7 Q. Okay. And I think just to be</p> <p>140:8 complete for the record, if you turn to the page</p> <p>140:9 prior, you'll see another cover sheet with your</p> <p>140:10 picture in the upper left-hand in black and</p> <p>140:11 white.</p> <p>140:12 Do you see that?</p> <p>140:13 A. I do.</p> <p>140:14 Q. And then over on the right-hand</p> <p>140:15 side, I think it has the time frame of the</p> <p>140:16 evaluation, July 1st of 2010 through June 30th,</p> <p>140:17 2011.</p> <p>140:18 Do you see that?</p> <p>140:19 A. I do.</p> <p>140:20 Q. And is it your understanding that</p> <p>140:21 that is the time frame for which this evaluation</p> <p>140:22 is being conducted?</p>	KH01.75

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
152:16 - 152:18	<p>140:23 A. Yes, correct.</p> <p>Howenstein, Kim 01-10-2019 (00:00:08)</p> <p>152:16 Q. Actually, this is the one</p> <p>152:17 Mr. Elkins reviewed with you, so I'm -- I'm not</p> <p>152:18 going to bother with it. If you'll go to</p>	KH01.39
152:19 - 152:21	<p>Howenstein, Kim 01-10-2019 (00:00:12)</p> <p>152:19 Page 9. And in the big box at the bottom, the</p> <p>152:20 first paragraph, the last full sentence, I</p> <p>152:21 think, of the first paragraph, it says --</p>	KH01.64
153:1 - 153:6	<p>Howenstein, Kim 01-10-2019 (00:00:12)</p> <p>153:1 A. And we're speaking about the first</p> <p>153:2 paragraph, correct?</p> <p>153:3 Q. Yeah. I was actually starting at</p> <p>153:4 the bottom where it says -- it's actually not --</p> <p>153:5 it's part of the last sentence, "I owe it to</p> <p>153:6 that customer and their customer."</p>	KH01.40
153:10 - 153:22	<p>Howenstein, Kim 01-10-2019 (00:00:34)</p> <p>153:10 Do you see where it says at the</p> <p>153:11 bottom of that paragraph, "I owe it to that</p> <p>153:12 customer and their customer (the patient or</p> <p>153:13 recipient of that drug) to review and adjust</p> <p>153:14 their threshold limits to accommodate their</p> <p>153:15 needs should the need be real and the adjustment</p> <p>153:16 warranted based on factual data."</p> <p>153:17 Did I read that right?</p> <p>153:18 A. Yes, you did.</p> <p>153:19 Q. And that's what you needed to</p> <p>153:20 adjust thresholds, was factual objective data,</p> <p>153:21 not just, "Hey, we need to increase because we</p> <p>153:22 need to increase," correct?</p>	KH01.41
153:24 - 154:1	<p>Howenstein, Kim 01-10-2019 (00:00:04)</p> <p>153:24 A. Dispensing data is something that</p> <p>154:1 we use in reviewing threshold limits, yes.</p>	KH01.42
157:2 - 157:11	<p>Howenstein, Kim 01-10-2019 (00:00:26)</p> <p>157:2 It states then down just a few</p> <p>157:3 more lines, "I understand the changes my</p> <p>157:4 customers face when they are limited on</p> <p>157:5 controlled and monitored substances, and I am</p> <p>157:6 here to help them better understand what they</p> <p>157:7 need to provide to QRA to mitigate the risk of</p>	KH01.43

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line

Source

ID

157:8 disruption to their service."

157:9 Did I read that correctly?

157:10 A. Yeah. I understand the

157:11 challenges.

159:2 - 159:16

Howenstein, Kim 01-10-2019 (00:00:57)

KH01.44

159:2 Q. And then it goes on, "And I am

159:3 here to help them better understand what they

159:4 need to provide to QRA to mitigate the risk of

159:5 disruption of their service."

159:6 And then if you go down a little

159:7 further, it says, "I can factually show a sales

159:8 rep or a customer that their utilization in a

159:9 specific drug family is increasing and what they

159:10 need to provide in order to adjust their limit.

159:11 I will provide as much training and knowledge to

159:12 the sales and the customer as needed to help

159:13 them better understand what they need to provide

159:14 us in order for us to service them better."

159:15 Did I read that correctly?

159:16 A. You did.

202:22 - 203:2

Howenstein, Kim 01-10-2019 (00:00:12)

KH01.45

202:22 Q. Yeah. Back to the personnel

202:23 information.

202:24 MS. WADHWANI: Just so the record

203:1 is clear, we're going back to Exhibit 3,

203:2 Page 22?

205:3 - 206:5

Howenstein, Kim 01-10-2019 (00:00:59)

KH01.46

205:3 Q. Okay. It says, "As a way to

205:4 improve communication with the sales team and

205:5 our customers, the enhanced suspicious order

205:6 monitoring communication will occur notifying

205:7 the assigned sales rep of all customer orders

205:8 held due to the SOM."

205:9 Did I read that correctly?

205:10 A. You did.

205:11 Q. And this is, again, your writing,

205:12 correct?

205:13 A. Correct.

205:14 Q. And sitting here today you have no

205:15 reason to dispute what you wrote back then; is

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	205:16 that fair?	
	205:17 A. I do not dispute this.	
	205:18 Q. Okay. You just don't recall it	
	205:19 sitting here today?	
	205:20 A. That is correct.	
	205:21 Q. Okay. Now, if you look at the	
	205:22 bottom of the page, this -- this whole section	
	205:23 is still in September of 2012, right?	
	205:24 A. Right.	
	206:1 Q. And you know that during this	
	206:2 time, there were some changes going on because	
	206:3 as early as February of 2012, the Lakeland	
	206:4 Distribution Center lost its license again,	
	206:5 correct?	
206:7 - 206:13	Howenstein, Kim 01-10-2019 (00:00:11)	KH01.47
	206:7 A. I'm not sure of the time frame of	
	206:8 that.	
	206:9 Q. Sure.	
	206:10 But you are aware that the	clear
	206:11 Lakeland Distribution Center had its DEA	
	206:12 registration suspended for distributing	
	206:13 controlled substances, correct?	
206:15 - 206:16	Howenstein, Kim 01-10-2019 (00:00:07)	KH01.48
	206:15 A. I am aware of some agreement with	
	206:16 DEA and Cardinal Health regarding Lakeland.	
207:13 - 208:4	Howenstein, Kim 01-10-2019 (00:00:55)	KH01.49
	207:13 Q. Okay. Actually we'll come back to	
	207:14 it. Let's go to Page 23.	
	207:15 In the middle paragraph there on	
	207:16 the right-hand side, the last full sentence	
	207:17 says, "Sales teams have expressed frustration	
	207:18 about the lack of communication and this new	
	207:19 communication creates better transparency	
	207:20 between QRA, sales, and our customer."	
	207:21 Did I read that correctly?	
	207:22 A. You did.	
	207:23 Q. And that sort of mimics what you	
	207:24 were talking about in our early -- earlier	
	208:1 personnel evaluations, that our goal is to	
	208:2 assist sales, as well as our customers, and	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
208:3 - 208:6	208:3 keeping open lines of communication is one way 208:4 of doing that, right? Howenstein, Kim 01-10-2019 (00:00:02)	KH01.50
208:6 - 209:6	208:6 A. Yes. Howenstein, Kim 01-10-2019 (00:01:03) 208:7 Q. Okay. So if we go to the next 208:8 page, Page 24. We have that similar section at 208:9 the bottom. It talks -- it's employee 208:10 self-assessment. It says, "Things that went 208:11 well over the performance year would include," 208:12 and then it has a number of items there. 208:13 Do you see that? 208:14 A. I do. 208:15 Q. And then we have one that's 208:16 called, "Setting threshold limits for national 208:17 accounts that were not previously set." 208:18 It says, "We are working towards 208:19 setting threshold limits each Monday for 208:20 accounts not previously set with limits. This 208:21 helps ensure the monitoring of customers based 208:22 on their monthly purchases." 208:23 And correct me if I'm wrong -- 208:24 well, first of all, did I read that correctly? 209:1 A. You did. 209:2 Q. Okay. And thresholds are the 209:3 limits that prevent certain customers -- or 209:4 prevent the customers from ordering above 209:5 whatever that threshold is, correct? 209:6 A. That's correct.	KH01.65
210:8 - 210:18	Howenstein, Kim 01-10-2019 (00:00:32) 210:8 Q. Okay. Now, it says, "Pulling 210:9 accounts that have no thresholds set is 210:10 necessary as QRA does not see every account that 210:11 is set up through Cardinal Health to purchase 210:12 controlled and monitored substances." 210:13 Did I read that accurately? 210:14 A. You did. 210:15 Q. Now, that coincides to what you 210:16 testified to earlier, doesn't it, that some 210:17 accounts, the national chains, are set up	KH01.51

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
210:20 - 211:7	<p>210:18 outside QRA, right?</p> <p>Howenstein, Kim 01-10-2019 (00:00:25)</p> <p>210:20 A. They are.</p> <p>210:21 Q. And whoever it is -- and we don't</p> <p>210:22 need to get into the details of who it is, but</p> <p>210:23 whoever it is outside QRA is setting them up, if</p> <p>210:24 they're not setting thresholds, then QRA needs</p> <p>211:1 to do it at some point, correct?</p> <p>211:2 A. That is correct.</p> <p>211:3 Q. Okay. And apparently this is, at</p> <p>211:4 least the time frame up until September of 2012,</p> <p>211:5 when you were working on doing that every</p> <p>211:6 Monday; is that fair? At least according to</p> <p>211:7 this statement.</p>	KH01.52
211:9 - 212:7	<p>Howenstein, Kim 01-10-2019 (00:01:04)</p> <p>211:9 A. According to this statement.</p> <p>211:10 Q. Okay. If you'll turn back to</p> <p>211:11 Page 26. And now we're looking at a section</p> <p>211:12 that "Things that could have gone better over</p> <p>211:13 the performance year would include." Again, we</p> <p>211:14 have the same sort of layout with bullets; is</p> <p>211:15 that right?</p> <p>211:16 A. That's correct.</p> <p>211:17 Q. And, again, this is a section that</p> <p>211:18 you would have drafted, right?</p> <p>211:19 A. That is correct.</p> <p>211:20 Q. Okay. If we go to about the</p> <p>211:21 middle, "The lack of information the QRA</p> <p>211:22 specialists have around decisions made by QRA</p> <p>211:23 pharmacists regarding held orders." And you</p> <p>211:24 write, "I frequently get asked by sales if a</p> <p>212:1 customer order will be released."</p> <p>212:2 And that probably happens quite</p> <p>212:3 regularly if there's something that's being</p> <p>212:4 held, I'm assuming that the customer's bugging</p> <p>212:5 their sales rep, wanting to know what's going to</p> <p>212:6 happen, and then the sales rep calls you guys in</p> <p>212:7 QRA, right?</p>	KH01.69
212:10 - 212:10	<p>Howenstein, Kim 01-10-2019 (00:00:01)</p> <p>212:10 A. Potentially, yes.</p>	KH01.53

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
214:12 - 215:3	Howenstein, Kim 01-10-2019 (00:00:37) 214:12 Q. If you go down, it says, "This 214:13 puts the analyst in a tough position because 214:14 sales tends to reach out to us before they 214:15 reached out to the pharmacist and I cannot 214:16 continue to be the middleman as it is not an 214:17 effective use of my time, nor do I have the 214:18 authority." 214:19 Did I read that correctly? 214:20 A. Yes, you did. 214:21 Q. Okay. So it sort of solidifies 214:22 what we already talked about, you're stuck in 214:23 the middle, there is someone else making the 214:24 decisions because you don't have the authority, 215:1 and sales is coming to you because you're sort 215:2 of filling that liaison role, correct? 215:3 A. Yes.	KH01.54
219:19 - 220:6	Howenstein, Kim 01-10-2019 (00:00:31) 219:19 Q. Okay. And that you had a concern 219:20 that the existing one didn't provide the 219:21 necessary information for a defensible reason to 219:22 release orders. 219:23 That's what you're relaying at 219:24 this point in time, correct? 220:1 A. Yes, that's what I wrote in here. 220:2 Q. Okay. And that such arbitrarily 220:3 based replies as, "We are growing," and, "We 220:4 have seen an increase in business" are not 220:5 sufficient to justify threshold increases. 220:6 Correct?	KH01.55
220:8 - 220:10	Howenstein, Kim 01-10-2019 (00:00:10) 220:8 A. A threshold adjustment cannot be 220:9 arbitrarily -- cannot be made arbitrarily based 220:10 on replies, yes.	KH01.56
230:23 - 231:19	Howenstein, Kim 01-10-2019 (00:00:58) 230:23 Q. And as it relate -- not 230:24 necessarily in relates to dirty houses and 231:1 houses having cockroaches, but as it relates to 231:2 pharmaceutical sales, controlled substance 231:3 sales.	KH01.57 clear

Page/Line	Source	ID
	231:4 A. I believe that I have heard that	
	231:5 phrase.	
	231:6 Q. Okay.	
	231:7 A. I don't know when or where.	
	231:8 Q. Okay. Well, let me see if our	
	231:9 understanding is the same of the cockroach	
	231:10 effect.	
	231:11 Cockroach effect would be if we	
	231:12 have pharmacies in a town that we're servicing,	
	231:13 and one pharmacy gets shut down by the DEA for	
	231:14 filling bad scripts and anti-diversion issues,	
	231:15 and we see the cockroaches from that pharmacy	
	231:16 run to all of our new pharmacies, our good	
	231:17 pharmacies, we don't want to be servicing that	
	231:18 increase in the bad cockroaches coming over to	
	231:19 our good pharmacies. Correct?	
231:21 - 231:23	Howenstein, Kim 01-10-2019 (00:00:05)	KH01.66
	231:21 A. I do -- I understand the cockroach	
	231:22 effect in that statement.	
	231:23 Q. Do you agree with it?	
232:1 - 233:2	Howenstein, Kim 01-10-2019 (00:01:10)	KH01.58
	232:1 A. I don't know if I agree with that.	
	232:2 Q. Okay. Well, let's go to Page 28.	
	232:3 Let's go to the bottom -- well, let's go to the	
	232:4 paragraph in the bottom left. And if you look	
	232:5 down there, like the last sentence or two, it	
	232:6 says, "There is a cockroach effect."	
	232:7 Do you see where I'm at?	
	232:8 A. I do.	
	232:9 Q. Again, this section is written by	
	232:10 you.	
	232:11 "There is a cockroach effect	
	232:12 happening where if a terminate -- if we	
	232:13 terminate a bad customer based on evidence of	
	232:14 potential diversion, those customers will	
	232:15 scatter to good pharmacies. If we can retain	
	232:16 our customers -- if we train our customers on	
	232:17 how to operate a legitimate pharmacy, the goal	
	232:18 is those bad customers will not be serviced."	
	232:19 Do you see that?	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	232:20 A. I do see that.	
	232:21 Q. And that's what we want to try to	
	232:22 prevent; if we cut off a bad customer or if the	
	232:23 DEA shuts down a bad pharmacy, we don't want to	
	232:24 continue to encourage that bad conduct by the	
	233:1 cockroaches coming to our good pharmacies, do	
	233:2 we?	
233:4 - 233:8	Howenstein, Kim 01-10-2019 (00:00:09)	KH01.59
	233:4 A. Pharmacies should do -- should	
	233:5 fill legitimate prescriptions, yes.	
	233:6 Q. Right. We don't want to encourage	
	233:7 the cockroach effect. We can agree with that,	
	233:8 right?	
233:11 - 233:15	Howenstein, Kim 01-10-2019 (00:00:07)	KH01.76
	233:11 A. That was a poor choice of wording	
	233:12 here.	
	233:13 Q. Poor choice of wording where?	
	233:14 Using the term "cockroach effect"?	
	233:15 A. Yeah.	
233:16 - 233:22	Howenstein, Kim 01-10-2019 (00:00:16)	KH01.60
	233:16 Q. But you still agree with the	
	233:17 principle, that if we terminate a bad customer	
	233:18 and the bad customer or customers scatter and	
	233:19 start coming to our good pharmacies, we	
	233:20 shouldn't continue to service the increased	
	233:21 volume, right? We shouldn't only fill	
	233:22 legitimate orders?	
234:2 - 234:6	Howenstein, Kim 01-10-2019 (00:00:12)	KH01.61
	234:2 A. We should only fill legitimate	
	234:3 prescription needs.	
	234:4 Q. So other than what you phrase as a	
	234:5 bad choice of words, cockroach effect, you agree	
	234:6 with the principle, right?	
234:8 - 234:9	Howenstein, Kim 01-10-2019 (00:00:02)	KH01.62
	234:8 Q. I mean, you're the one that wrote	
	234:9 this, correct?	
234:12 - 234:12	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.63
	234:12 A. I did. I did.	
234:13 - 234:21	Howenstein, Kim 01-10-2019 (00:00:26)	KH01.77
	234:13 Q. Did you ever have any experience	

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	234:14 with that happening? Did you ever see that 234:15 happening with any of your pharmacies and your 234:16 customers, where for whatever reason, pill mills 234:17 or bad pharmacies or whatever would either get 234:18 shut off by you guys or shut down by the DEA and 234:19 the volume would increase at your good 234:20 pharmacies because of these -- these bad 234:21 cockroaches?	
234:23 - 234:23	Howenstein, Kim 01-10-2019 (00:00:02)	KH01.83
	234:23 A. I have not seen this happen.	
241:2 - 241:6	Howenstein, Kim 01-10-2019 (00:00:24)	KH01.80
	241:2 Q. Do you know whether or not 241:3 national accounts, chains, got a national 241:4 threshold versus an independent threshold? 241:5 A. I do not know that answer. 241:6 MR. FULLER: Let's bring up 4213.	
241:10 - 241:11	Howenstein, Kim 01-10-2019 (00:00:03)	KH01.87
	241:10 MR. FULLER: This is going to be 241:11 Plaintiff's Exhibit 9, for the record.	
241:12 - 243:16	Howenstein, Kim 01-10-2019 (00:02:01)	KH01.89
	241:12 I'm sorry. Bear with me one 241:13 second. 241:14 Page 8. 241:15 BY MR. FULLER: 241:16 Q. This -- I'm sorry. Let's start at 241:17 the beginning. You don't even know what you're 241:18 looking at, do you? 241:19 A. I do not. 241:20 Q. I apologize. 241:21 So this is a declaration, as it is 241:22 titled, that was filed of Michael Moni pursuant 241:23 to 28 USC 1746. 241:24 Do you see that written there? 242:1 A. I do. 242:2 Q. And you know who Michael Moni is, 242:3 right? 242:4 A. I do. 242:5 Q. Okay. He worked in the 242:6 anti-diversion supply chain integrity department 242:7 at Cardinal Health, correct?	

Page/Line

Source

ID

242:8 A. He did.

242:9 Q. Okay. And it says -- the style of

242:10 the case is Cardinal Health versus Eric Holder.

242:11 Do you see that?

242:12 A. I do.

242:13 Q. Okay. So it says in Number 1, "My

242:14 name is Michael A. Moni and I am the vice

242:15 president for supply chain integrity of Cardinal

242:16 Health herein after Cardinal. I have personal

242:17 knowledge of the facts set forth herein and

242:18 believe them to be true based on my experience

242:19 in the pharmaceutical industry or upon

242:20 information provided to me by others. If asked

242:21 to do so, I could truthfully testify" -- excuse

242:22 me -- "testify truthfully about the matters

242:23 contained herein."

242:24 Do you see that?

243:1 A. I do.

243:2 Q. And do you know Mr. Moni to be an

243:3 honest gentleman?

243:4 A. I have no reason to believe he's

243:5 not.

243:6 Q. Okay. Fair enough.

243:7 So if you turn to Page 8,

243:8 Paragraph 17, it says, "Thresholds for a chain

243:9 pharmacy that opens a new pharmacy are set based

243:10 on the standard threshold for the entire chain

243:11 because Cardinal Health has determined that

243:12 chain pharmacy customers generally have a known

243:13 ordering pattern for the majority of their

243:14 stores."

243:15 So have you ever heard prior to

243:16 this of the

243:20 - 244:9

Howenstein, Kim 01-10-2019 (00:00:39)

KH01.88

243:20 Q. -- standard thresholds for an

243:21 entire chain. Have you ever heard of that

243:22 before?

243:23 A. I've not heard it stated as such.

243:24 Q. Do you know whether they had a

244:1 standard threshold for, for example, for CVS,

KH01-Howenstein, Kim - Plaintiffs' Submission

Page/Line	Source	ID
	244:2 that would be a chain, right?	
	244:3 A. Right.	
	244:4 Q. Do they have one threshold for all	
	244:5 CVSs?	
	244:6 A. So looking at this and having	
	244:7 never seen it and reading that statement, I do	
	244:8 recall we have baselines set for different	
	244:9 business models and also for chains.	
355:23 - 356:1	Howenstein, Kim 01-10-2019 (00:00:08)	KH01.78
	355:23 Q. Does each individual store that is	
	355:24 part of a national chain have its own threshold	
356:3 - 356:6	356:1 specific to it assigned by Cardinal Health?	KH01.86
	Howenstein, Kim 01-10-2019 (00:00:08)	
	356:3 A. They do.	
	356:4 Q. Is that threshold assigned to that	
	356:5 store before Cardinal Health distributes	
	356:6 controlled substances to that store?	
356:8 - 356:8	Howenstein, Kim 01-10-2019 (00:00:01)	KH01.85
	356:8 A. They are.	

Plaintiff Designations = 00:26:31

Defense Counters = 00:00:19

Plaintiff Counter Counters = 00:03:10

Defense Completeness Counters = 00:03:35

Total Time = 00:33:35